

REMARKS

Applicant submits this paper in response to the final Office Action dated December 28, 2007.

Claims 1-3, 5-9, 14-23, and 39-43 are pending in the application. Claims 40-42 are presently withdrawn.

In light of the following remarks, Applicant believes that the present application is in condition for allowance and respectfully requests the Office to acknowledge the same.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1-3, 5-23, 39 and 43 stand rejected as allegedly obvious over Emsley et al. (U.S. Patent No. 4,509,635) in view of Boyd (U.S. Patent No. 6,208,908).

Applicant respectfully submits that these rejections are improper and should be withdrawn because the final Office Action has failed to establish a *prima facie* case of obviousness. Specifically, the combination of references do not teach each and every element recited in the claims; and the asserted suggestion to modify the references to arrive at the claimed invention is legally deficient.

The present invention is generally directed to a dumping station including a bin having an opening. The bin is rotatable such that articles can be received into, and discharged from, the same opening. In one embodiment described with reference to Fig. 3, for example, the opening is configured such that the bin has an open top and an open front.

INDEPENDENT CLAIMS 1, 15, AND 39

Therefore, as amended in Applicant's paper submitted on October 18, 2007, independent claims 1, 15, and 39 of the present application recite, in part, a bin comprising a receiving end, a discharge end, and an opening extending between the receiving and discharge ends. Additionally, independent claims 1, 15, and 39 recite that articles are received into the receiving end *of the opening*, and discharged from the discharge end *of the opening*.

Neither Emsley nor Boyd, alone or in combination, teach or suggest such features in combination with the remaining elements of independent claims 1, 15, and 39.

The Emsley Reference

Emsley teaches rotatable receptacles 2 having receiving openings and discharge openings that are arranged on opposite ends of the receptacles 2, and therefore, are separate and distinct from each other. See Fig. 3 of Emsley, for example. The discharge openings are equipped with flaps 9 for selectively discharging the contents of the receptacles.

Therefore, Emsley does not disclose a bin having an opening extending between a receiving end and a discharge end such that articles are received into and discharged from the opening, as recited in claims 1, 15, and 39 of the present application.

Moreover, there is no suggestion to modify Emsley to include a single opening serving as both the receiving opening and the discharge opening because it unequivocally discloses a configuration utilizing two separate and distinct openings, as described.

The Boyd Reference

In responding to Applicant's arguments filed on October 18, 2007, the final Office Action states:

...although Boyd discloses a bin with a receiving end at the top and a discharge opening on the side, i.e., 90 degrees to the receiving end, it would have been obvious for one of ordinary skill in the art to place the receiving end opposite the discharge end with the top portion remaining open since there are only a finite number of locations for a discharge end and a receiving end...

See, final Office Action, last line of page 6 continuing onto page 7.

Applicant is perplexed by this interpretation of Boyd. Boyd does not disclose "a bin with a *receiving end at the top* and a *discharge opening on the side*, i.e., 90 degrees to the receiving end..." (emphasis added). Rather, as asserted in Applicants' paper filed on October 18, 2007, Boyd discloses a receptacle 12 having an open top and an *open bottom 30*. The top and bottom are disposed 180 degrees relative to each other. The receptacle 12 is similar to the receptacles 2 disclosed by Emsley in that they are each equipped with a retractable door 33. See Fig. 4 of Boyd, which is reproduced below for convenience and illustrates the door 33 in an open position, thereby defining the open bottom 30.



Furthermore, it would not have been obvious to modify the device disclosed by Boyd to comprise a receiving end, a discharge end, and an opening extending between the receiving and discharge ends such that articles are received into and discharged from the same opening, as recited in claims 1, 15, and 39, because there is no suggestion to do so. In the final Office Action, the examiner seems to assert that a suggestion to modify Boyd can be found within the knowledge of a person having ordinary skill in the art at the time the invention was made. Specifically, the examiner states that “...one ordinarily skilled in the art would have found it logical to place the openings where they are needed based on the ergonomic and workflow requirements of the article handling situation...” *See*, final Office Action, page 7. Applicant respectfully submits that such a suggestion is legally deficient.

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This door 33 is partly required because the receptacle in Boyd operates in a fixed rotational disposition. Therefore, a person having ordinary skill in the art at the time of the invention would not have found it logical to alter or modify the receptacle to have a common opening for receiving and discharging articles because it would not be successful without substantial further modification of the device. Any such further modification would clearly change the principle of operation of the invention disclosed by Boyd, thereby rendering the suggestion legally deficient. MPEP § 2145.

Additionally, while Emsley discloses a receptacle that is rotatable between various positions for receiving and discharging articles, Emsley too requires separate and distinct receiving and discharge openings. Therefore, in light of Emsley, a person having ordinary skill in the art would only consider modifying Boyd to operate in a similarly configured rotatable application. Nothing, however, in Emsley, Boyd, or otherwise suggests using a bin including a single opening extending between the receiving and discharge ends for receiving and discharging articles. Any assertion otherwise can only be based on hindsight reasoning gleaned from Applicant's own disclosure, which also constitutes a legally deficient basis for establishing an obviousness rejection. MPEP § 2145.

Therefore, common sense dictates that the invention recited in claims 1, 15, and 39 cannot be deemed obvious in view of Emsley, Boyd, the knowledge of a person having ordinary skill in the art at the time of the invention, or any other available source.

INDEPENDENT CLAIM 43

Independent claim 43 recites a dumping station comprising, in part, a bin having an open top and an *open front* in combination with various other features. As described above, neither Emsley nor Boyd discloses a bin having an open top and an *open front*. Rather, each discloses a bin, or more accurately a chute, having an open top and an *open bottom*.

Moreover, it would not have been obvious to modify Emsley, Boyd or any other reference to arrive at the invention recited in claim 43 because as stated above, each unequivocally teaches a bin, or chute, requiring two separate and distinct openings for receiving and discharging articles, respectively.

Accordingly, Applicant respectfully submits that the final Office Action has failed to establish a *prima facie* case of obviousness of independent claims 1, 15, 39, and 43, and

therefore the rejections should be withdrawn. Moreover, Applicant respectfully submits that claims 1, 15, 39, and 43 are novel and non-obvious.

Prompt consideration and allowance of the application is respectfully requested.

REJOINDER

Applicant respectfully requests rejoinder of claims 40-42 as being dependent on an allowable base claim.

CONCLUSION

In view of the foregoing, Applicant believes that all outstanding objections, rejections, and other concerns have been either accommodated, traversed, or rendered moot. Therefore, the present application is in condition for allowance.

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Respectfully submitted,

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